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Appl. No.: 10/721,517

REMARKS

The last Office Action of April 7, 2005 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-13 are pending in the application. Claims 1, 2, 6-11 and 13 have been amended. Claim 5 has been canceled. An amendment to the specification has been made. No fee is due.

It is noted that the drawings are objected to because of applicant's failure to show every feature set forth in the claims.

It is further noted that claim 8 is rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Claims 1, 2, 9, 10, and 11 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-3 and 5-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,867,299 to Fukuoka et al. in view of U.S. Pat. No. 6,105,751 to Jentjens et al.

Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Fukuoka et al. in view of U.S. Pat. No. 6,056,228 to Resch.

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OBJECTION TO THE DRAWING

The objection to the drawings is respectfully traversed.

While Fig. 1 indicates by arrow 6a an impending transfer of an article from the upper conveyor to the elevator, it is applicant's contention that further drawings to show the reverse situation or a transfer of articles between the lower conveyor and the elevator would only add illustrations and description that are not necessary for the understanding of the invention. It is believed that Fig. 1 in conjunction with Fig. 2 should be considered sufficient to show all claimed features.

Therefore, withdrawal of the objection to the drawing is thus respectfully requested.

REJECTION OF CLAIM 8 UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Applicant has amended claim 8 to refer to the travel speed of the elevator. As described in paragraph [0022], the control unit activates operation of the elevator conveyor and operation of the respective one of the upper or lower conveyor, when the elevator passes the corresponding trigger position. The activation of the respective upper or lower conveyor may hereby take place immediately, or after a predetermined delay time. In the event of a delay time, the time lapse of the delay can be made dependent on the travel speed of the elevator.

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The misunderstanding by the Examiner may be grounded by the ambiguous translation of the German word "Anfahrgeschwindigkeit" in the priority application 102 55 344.0, which word should have been translated more accurately as --travel speed--. The instant specification has been amended accordingly.

It is believed that claim 8 is now clear on this point.

Withdrawal of the rejection of claim 8 under 35 U.S.C. §112, first paragraph is thus respectfully requested.

REJECTION OF CLAIMS 1, 2, 9, 10, 11 UNDER 35 U.S.C. §112, SECOND PARAGRAPH

Applicant has amended claims 1, 2, 9-11 to address the §112 rejection. These changes are self-explanatory and cosmetic in nature and should not be considered as a narrowing amendment to trigger prosecution history estoppel.

Withdrawal of the rejection of the claims 1, 2, 9-11 under 35 U.S.C. §112, second paragraph is thus respectfully requested.

REJECTION OF CLAIMS 1-13 UNDER 35 U.S.C. §103(a)

In order to clearly set forth the features of the present invention and to more clearly distinguish the present invention from applied prior art, applicant has amended claims 1, 9, 10, and 11 by expressly setting forth the interrelation

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between the conveyors and the elevator to move articles, when the elevator passes either one of the trigger positions. More specifically, the upper and lower trigger positions have been clearly defined, whereby the upper trigger position is defined as a position which is below the upper plane, and whereby the lower trigger position is defined as a position which is above the lower plane. In other words, operation of the elevator conveyor is started as soon as it passes the lower or upper trigger position, i.e. before the elevator reaches the respective end positions in which the elevator conveyor is in alignment with either the upper conveyor or lower conveyor.

Fukuoka et al. disclose a transport system by which the conveyors (15, 16) of the elevator (frame 18) are operated when the elevator reaches the upper or lower end positions. As stated in col. 6, lines 36 to 42, only after the arrival of the frame 18 in its upper position does the controller send a signal to start the belt (15a) of the conveyor (15). In other words, Fukuoka et al. lacks the provision of an upper trigger position at a distance to the upper plane to cause operation of the elevator before the elevator reaches the upper end position, and the provision of a lower trigger position at a distance to the lower plane to cause operation of the elevator before the elevator reaches the lower end position.

The Jentiens et al. reference has been applied to show a disclosure of a transport system by which articles can be transferred from an upper conveyor or lower conveyor to an elevator conveyor. Jentiens et al. also fail to disclose, i.e., the provision of an upper trigger position at a distance to the upper plane to cause operation of the elevator before the elevator reaches the upper end

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position, and the provision of a lower trigger position at a distance to the lower plane to cause operation of the elevator before the elevator reaches the lower end position.

For the reasons set forth above, it is applicant's contention that neither Fukuoka et al. nor Jentjens et al., nor a combination thereof teaches or suggests the features of the present invention, as recited in claims 1, 9, 10, and 11.

As for the rejection of the retained dependent claims, these claims depend on claims 1 and 11, share their presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

Withdrawal of the rejection of claims 1-4, 6-13 under 35 U.S.C. §103(a) and allowance thereof are thus respectfully requested.

CONCLUSION

Applicant believes that when reconsidering the claims in the light of the above comments, the Examiner will agree that the invention is in no way properly met or anticipated or even suggested by any of the references however they are considered.

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In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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